

REMARKS

This paper responds to the Final Office Action dated March 17, 2010 and to the Advisory Action dated May 27, 2010. Claims 17, 28, and 35-36 are presently amended. Claims 1-16 and 26 were previously canceled. Claims 37-41 were previously withdrawn. No claims are added. As a result, claims 17-25 and 27-36 remain pending further examination in this application.

The Rejection of Claims Under § 103

Claims 17-25 and 27-36 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over McBrayer et al. (U.S. Patent 7,499,871, “McBrayer”) in view of Official Notice. A determination of obviousness requires a factual showing that “the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.”¹ “The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, (3) the level of skill in the art, and (4) where in evidence, . . . secondary considerations.”² Applicants respectfully submit that a determination of obviousness is not established for the reason that the scope and content of the cited references, even if combined, do not teach or suggest all claimed elements or support rational inferences that one skilled in the art reasonably would be expected to draw to reach all claimed elements.

Independent claims 17, 28, and 35-36 are herein amended to recite, in part, “**presenting the answer within a web page that displays the item as the listing for the item.**”³ Support for this amendment is found in Applicants’ specification (U.S. Patent Application Publication 2005/0015325), for example, at paragraph 0037⁴ and 0038.⁵ As amended, independent claims

¹ *Graham v. John Deere*, 383 U.S. 1, 17, 148 U.S.P.Q. 459, 467 (1966).

² *Graham*, 383 U.S. at 17-18, 148 U.S.P.Q. at 467, *KSR Int’l Co. v. Teleflex, Inc.*, 550 U.S. 398, 406-7, 82 U.S.P.Q.2d 1385, 1390 (2007), cited in *Ex parte Frye*, Appeal No. 2009-006013 (BPAI 2010) (precedential).

³ Emphasis added.

⁴ Specification at paragraph 0037, “[p]age servers 12 deliver **web pages** (e.g., **markup language documents**),” emphasis added.

⁵ *Id.* at paragraph 0038, “the page servers 12, . . . listing servers 16, . . . may individually, or in combination, act as a display engine to facilitate the **display of items** (e.g., **as listings**) on a client machine 38,” emphasis added.

recites that the item is displayed as a listing, that the item is displayed within a web page, and that the answers are presented within the web page. These limitations are not found in the combination of McBrayer and Official Notice.

For at least these reasons, the scope and content of McBrayer and Official Notice, even if combined, do not teach or suggest all claimed elements or support rational inferences that one skilled in the art reasonably would be expected to draw to reach all claimed elements. As a result, a determination of obviousness is not established with respect to any of independent claims 17, 28, and 35-36, and their respective dependent claims. Moreover, the dependent claims may each be patentable based on limitations recited therein. Thus, Applicants respectfully request that these rejections be reconsidered and withdrawn and that the claims be allowed.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone the undersigned at (408) 278-4048 to facilitate prosecution of this application.

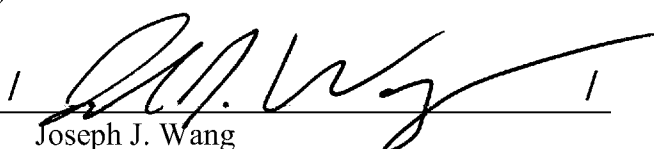
If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

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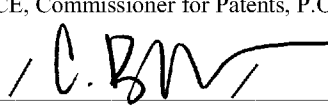
Date 17 July 2010

By


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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 17th day of June, 2010.

Chris Bartl
Name


Signature